

Appl. No. : 10/628,831  
Filed : July 28, 2003

IN THE CLAIMS:

**Please cancel Claims 1-13 without prejudice or disclaimer.**

**Please amend Claims 14 and 17 and add new Claims 26-35 as follows:**

1. (Canceled)
2. (Canceled)
3. (Canceled)
4. (Canceled)
5. (Canceled)
6. (Canceled)
7. (Canceled)
8. (Canceled)
9. (Canceled)
10. (Canceled)
11. (Canceled)
12. (Canceled)
13. (Canceled)
14. (Currently Amended) An eyeglass frame, comprising:
  - a support for supporting at least one lens in the path of a wearer's field of view;
  - a first ear stem attached to the support, for extending in a posterior direction along a first side of the wearer's head;
  - a second ear stem attached to the support, for extending in a posterior direction along a second side of the wearer's head;
  - at least one speaker supported by the first ear stem with a first mounting mechanism, the first mounting mechanism defining a linear path along which the speaker can be translated by a user, the first mounting mechanism further defining a pivot configured to allow the speaker to be pivoted about a first pivot axis parallel to the linear path; and
  - at least one microphone supported by at least one of the support, first ear stem, and second ear stem, the microphone being arranged to face towards the head of a wearer of the eyeglass frame.

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15. (Original) An eyeglass frame as in Claim 14, further comprising a power supply replaceably carried by the support.

16. (Original) An eyeglass frame as in Claim 14, wherein the support comprises a pair of orbitals supporting the at least one lens and a second lens, respectively, a bridge connecting the orbitals, the microphone being supported by the bridge.

17. (Currently Amended) An eyeglass, comprising:

a frame configured to support a lens in the path of a wearer's field of view,  
the frame comprising:

at least one orbital; and

a first earphone support;

a telecommunications receiver positioned inside of the frame;

a telecommunications transmitter positioned inside of the frame;

a first earphone carried by the first earphone support, the earphone support being configured to define a linear path for the first earphone along which a user can translate the first earphone, the first earphone support being further configured to allow the first earphone to pivot about a first pivot axis parallel to the linear path;  
and

a microphone carried by the frame.

18. (Original) An eyeglass as in Claim 17, further comprising a digital storage device.

19. (Original) An eyeglass as in Claim 18, wherein the digital storage device comprises an MP3 storage device.

20. (Original) An eyeglass as in Claim 17, further comprising a power supply carried by the frame.

21. (Original) An eyeglass as in Claim 20, wherein the power supply is rechargeable.

22. (Original) An eyeglass as in Claim 20, wherein the power supply is replaceably carried by the frame.

23. (Original) An eyeglass as in Claim 17, wherein the frame further comprises a second earphone and a second earphone support and wherein the second earphone is carried by the second earphone support.

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24. (Original) An eyeglass as in Claim 23, wherein the first earphone support extends rearwardly from the front of the eyeglass and second earphone support extends rearwardly from the front of the eyeglass.

25. (Original) An eyeglass as in Claim 23, wherein the first earphone support extends down from the frame and second earphone support extends down from the frame.

26. (New) An eyeglass frame as in Claim 14 additionally comprising a second speaker supported by the second ear stem with a second mounting mechanism, the second mounting mechanism being configured to define a second linear path along which a user can translate the second speaker, the second mounting mechanism being further configured to allow the second speaker to pivot about a second pivot axis parallel to the second linear path.

27. (New) An eyeglass frame as in Claim 14, wherein the mounting mechanism is configured to allow the first speaker to pivot about the first pivot axis over a range of at least about 30-40 degrees.

28. (New) An eyeglass frame as in Claim 14, wherein the mounting mechanism is configured to allow the first speaker to pivot about the first pivot axis over a range of at least about 90 degrees.

29. (New) An eyeglass frame as in Claim 14, wherein the mounting mechanism is configured to allow the first speaker to translate along the linear path over a range of at least about one-quarter of one inch.

30. (New) An eyeglass frame as in Claim 14, wherein the mounting mechanism is configured to allow the first speaker to translate along the linear path over a range of at least about three-quarters of one inch.

31. (New) An eyeglass as in Claim 17 additionally comprising a second earphone supported by a second earphone support, the second earphone support being configured to define a second linear path along which a user can translate the second earphone, the second earphone support being further configured to allow the second earphone to pivot about a second pivot axis parallel to the second linear path.

32. (New) An eyeglass as in Claim 17, wherein the earphone support is configured to allow the first earphone to pivot about the first pivot axis over a range of at least about 30-40 degrees.

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33. (New) An eyeglass as in Claim 17, wherein the first earphone support is configured to allow the first earphone to pivot about the first pivot axis over a range of at least about 90 degrees.

34. (New) An eyeglass as in Claim 17, wherein the earphone support is configured to allow the first earphone to translate along the linear path over a range of at least about one-quarter of one inch.

35. (New) An eyeglass as in Claim 17, wherein the earphone support is configured to allow the first earphone to translate along the linear path over a range of at least about three-quarters of one inch.

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### COMMENTS

Claims 1-13 have been canceled without prejudice or disclaimer. Claims 14-35 are now pending in the present application, Claims 14 and 17 having been amended, and new Claims 26-35 having been added. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ and additions being underlined.

In response to the Office Action mailed February 11, 2005, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

#### Rickards Does Not Anticipate Claims 14-17 and 20-25

Claims 14-17 and 20-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,012,812 issued to Rickards. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have amended Claims 14 and 17. Applicants also expressly reserve the right to further prosecute the original versions of Claims 14-25 through continuation practice.

Rickards teaches safety goggles having a microphone positioned so as to face toward a user. However, Rickards fails to teach any type of eyewear having a speaker or earphone that is mounted so as to be both translatable and pivotable. Rather, the speakers 61 of Rickards are detachable from and tethered to the ear stems 21, 22 with respective speaker wires 66, 64. The wires 66, 64 do not define linear paths along which a user can translate the speakers 61, 62 nor do they define pivot axes about which the speakers 61, 62 can pivot. Instead, Rickards only teaches that the speakers 61, 62 are designed to be inserted into the user's ears. See Rickards, col 5-6.

In contrast, Claim 14 now recites, among other recitations, "at least one speaker supported by the first ear stem with a first mounting mechanism, the first mounting mechanism defining a linear path along which the speaker can be translated by a user, the first mounting mechanism further defining a pivot configured to allow the speaker to be pivoted about a first pivot axis parallel to the linear path; and at least one microphone supported by at least one of the support, first ear stem, and second ear stem, the microphone being arranged to face towards the head of a wearer of the eyeglass frame."

Similarly, Claim 17 now recites, among other recitations, "a first earphone carried by the first earphone support, the earphone support being configured to define a linear path

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for the first earphone along which a user can translate the first earphone, the first earphone support being further configured to allow the first earphone to pivot about a first pivot axis parallel to the linear path; and a microphone carried by the frame.”

This distinction is important because, as noted in the present Specification, by providing for both translation and pivoting movements, precise positioning of the speakers or earphones can be easily repeated. Thus, Applicants submit that Claims 14 and 17 clearly and non-obviously define over the prior art.

Additionally, Applicants submit that Claims 15, 16, and 20-25 also define over the Rickards reference, not only because they depend from one of Claims 14 or 17, but also on their own merit.

The Applied Combination of Rickards/Vaudrey Does Not Make Obvious Claims 18 and 19

Claims 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being obvious over Rickards in view of U.S. Patent No. 6,311,155 issued to Vaudrey. Applicants respectfully traverse the present rejection. However, as noted above, Applicants submit that Claim 17 clearly and non-obviously defines over the Rickards reference. Thus, Applicant submits that Claims 18 and 19 also define over the prior art, not only because they depend from Claim 17, but also on their own merit.

New Claims 26-35 Are In Condition For Examination On Their Merits

New Claims 26-35 are fully supported by the original specification, and thus, no new matter has been introduced. Further, Applicants submit that Claims 26-35 clearly and non-obviously define over the Rickards and Vaudrey references, not only because they depend from one of Claims 14 or 17, but also on their own merit.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any

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undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 

Michael A. Guiliana  
Registration No. 42,611  
Attorney of Record  
2040 Main Street  
Fourteenth Floor  
Irvine, CA 92614  
(949) 760-0404

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